

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RICARDO BROWN,

Plaintiff,

- against -

P.O. JOSEPH CRUZADO, Shield No. 11022,
P.O. SIMON RASHID, Tax Registry No. 942412,
SERGEANT TIMOTHY HINTEMAN, Tax Registry
No. 931733, and THE CITY OF NEW YORK,

Defendants.
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AMENDED COMPLAINT
AND JURY TRIAL
DEMAND

08 CV 4515 (JG) (CLP)

Plaintiff, RICARDO BROWN, by his attorney, ALAN D. LEVINE, ESQ., as and for
his complaint herein, hereby alleges as follows:

JURISDICTION

1. This is a civil action, seeking compensatory damages, punitive damages and attorney's fees.
2. This action is brought pursuant to 42 U.S.C. §§1983 and 1988 and the fourth and fourteenth amendments to the Constitution of the United States.
3. Jurisdiction is founded upon 28 U.S.C. §§1331, 1343 and 1367.
4. Plaintiff, invoking the pendent jurisdiction of this Court, also seeks monetary damages, both compensatory and punitive, as well as attorney's fees, for false arrest and imprisonment and battery.

VENUE

5. Venue is properly alleged in the Eastern District of New York in that the acts complained of herein occurred within this District.

JURY TRIAL DEMAND

6. Plaintiff hereby demands a trial by jury of all issues in this action that are so triable.

PARTIES

7. At all times relevant hereto, plaintiff, RICARDO BROWN, was and is a natural person, resident in the County of Queens, City and State of New York.

8. At all times relevant hereto, defendant P.O. JOSEPH CRUZADO, Shield No. 11022 (hereinafter "CRUZADO") was and is a natural person, who, at the time of the events alleged herein, was employed as a police officer in the Police Department of defendant CITY OF NEW YORK.

9. At all times relevant hereto, defendant P.O. SIMON RASHID, Tax Registry No. 942412 (hereinafter "RASHID") was and is a natural person, who, at the time of the events alleged herein, was employed as a police officer in the Police Department of defendant CITY OF NEW YORK.

10. At all times relevant hereto, defendant SERGEANT TIMOTHY HINTEMAN, Tax Registry No. 931733 (hereinafter "HINTEMAN") was and is a natural person, who, at the time of the events alleged herein, was employed as a sergeant in the Police Department of defendant CITY OF NEW YORK.

11. At all times relevant hereto, defendant CITY OF NEW YORK was and is a municipal corporation, organized and existing pursuant to the laws of the State of New York.

12. The individual defendants are sued in their individual capacities as well as in their capacities as employees of defendant CITY OF NEW YORK.

13. On or about September 28, 2007, this date being within ninety (90) days after

the claims herein sued upon accrued, plaintiff served upon the Comptroller of the City of New York a verified written notice of claim setting forth the time, place, nature and manner in which said claim arose.

14. More than thirty (30) days have elapsed since the aforesaid verified notice of claim was served and the Comptroller has neglected and refused to make payment of said claim.

15. This action is commenced within one year and ninety days from the date the causes of action herein accrued.

**AS AND FOR A FIRST CAUSE OF ACTION
AGAINST THE INDIVIDUAL DEFENDANTS**
(42 U.S.C. 1983)

16. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "15" hereinabove as if more fully set forth at length herein.

17. On or about August 19, 2007, at approximately 1:30 A.M., plaintiff was walking in front of the premises known as 54-22 Beach Channel Drive, in the County of Queens, City and State of New York, when he noticed an altercation taking place between two youths and the four individual defendants hereto.

18. Plaintiff observed defendant CRUZADO spray mace or pepper spray into the faces of the two aforementioned youths.

19. Almost simultaneously with his maceing the two aforementioned youths, defendant CRUZADO, without any cause or provocation therefor, maced plaintiff in the face.

20. Unable to see properly after being maced, plaintiff put his hands over his eyes.

21. Plaintiff was immediately rushed by one or more of the individual defendants and pushed to the ground.

22. Defendant CRUZADO struck plaintiff on the head with his service weapon.

23. Plaintiff was thrown to the ground and handcuffed by defendants CRUZADO and HINTEMAN.

24. While lying on the ground as aforementioned, plaintiff was kicked in the head by defendants CRUZADO and HINTEMAN.

25. One or more of the individual defendants took plaintiff to a New York City Police Department van and placed him inside the van along with approximately eight other persons.

26. Before the door of the van was closed, defendant RASHID sprayed all of the occupants of the van with mace.

27. Plaintiff was taken to the stationhouse of the 101st Precinct and then to Queens Central Booking.

28. The individual defendants violated plaintiff's right to the due process of law guaranteed to him by the fourth and fourteenth amendments to the Constitution of the United States in that, acting under color of state law, they, without any cause or provocation whatsoever, physically assaulted him with a blunt object, mace and with their feet and by throwing him to the ground.

29. Because of the aforementioned acts committed by the individual defendants hereto, plaintiff suffered a deprivation of the right to the due process of law guaranteed to him by the fourth and fourteenth amendments to the Constitution of the United States and, as a result, suffered and continues to suffer serious and permanent physical and emotional injuries and incurred medical and legal expenses.

30. By reason of the unconstitutional and illegal actions taken against him by the individual defendants, plaintiff has been damaged in the amount of One Million (\$1,000,000.00) dollars and demands an additional One Million (\$1,000,000.00) dollars as punitive damages against the individual defendants.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST
THE INDIVIDUAL DEFENDANTS AND THE CITY OF NEW YORK**
(Battery)

31. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "30" hereinabove as if more fully set forth at length herein.

32. On or about August 19, 2007, at approximately 1:30 A.M., in front of the premises known as 54-22 Beach Channel Drive, County of Queens, City and State of New York, defendants CRUZADO, HINTEMAN and RASHID, without probable cause therefor, offensively touched plaintiff by maceing him, striking him with a gun, throwing him to the ground, and kicking him and striking him in his head, neck and back.

33. The aforesaid force used by the individual defendants was not reasonable under the circumstances.

34. At the aforesaid time and place, the individual defendants were acting within the scope of their employment by defendant CITY OF NEW YORK.

35. By reason of the aforementioned battery committed against him by the individual defendants, while they were acting within the scope of their employment by defendant CITY OF NEW YORK, plaintiff suffered and continues to suffer serious and permanent physical and emotional injuries and incurred medical and legal expenses.

36. As a result of the battery committed upon him by the individual defendants, while they were acting within the scope of their employment by defendant CITY OF NEW YORK, plaintiff has been damaged in the sum of One Million (\$1,000,000.00) dollars and

demands an additional One Million (\$1,000,000.00) dollars as punitive damages.

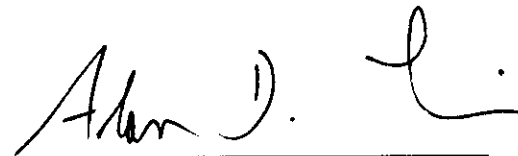
WHEREFORE, plaintiff, RICARDO BROWN, demands judgment against defendants, P.O. JOSEPH CRUZADO, Shield No. 11022, P.O. SIMON RASHID, Tax Registry No. 942412, SERGEANT TIMOTHY HINTEMAN, Tax Registry No. 931733, and THE CITY OF NEW YORK, as follows:

FIRST CAUSE OF ACTION: One Million (\$1,000,000.00) Dollars and an additional One Million (\$1,000,000.00) Dollars as punitive damages against the individual defendants;

SECOND CAUSE OF ACTION: One Million (\$1,000,000.00) Dollars and an additional One Million (\$1,000,000.00) Dollars as punitive damages against the individual defendants.

Plaintiff, in addition, demands the costs and disbursements of this action, including his attorney's fees, pursuant to 42 U.S.C. §1988.

Dated: Kew Gardens, New York
December 21, 2009

A handwritten signature in black ink, appearing to read "Alan D. Levine", is written over a horizontal line.

ALAN D. LEVINE, ESQ.
Attorney for Plaintiff
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File No: 2078